BLANK ROME LLP
Attorneys for Defendant
Jeremy J.O. Harwood (JH 9012)
405 Lexington Avenue
The Chrysler Building
New York, NY 10174
(212) 885-5000

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SAN JUAN NAVIGATION (SINGAPORE) PTE. LTD., Plaintiff, - against - TRANS POWER CO. LTD., Defendant.	08 CV 1562 (RMB)

AFFIDAVIT OF JEREMY J. O. HARWOOD

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

Jeremy J.O. Harwood, being duly sworn, deposes and says:

1. I am a member of the bar of this Honorable Court and of the firm of Blank Rome, LLP, attorneys for Defendant.

2. I attach as Exhibit 1 hereto a true copy of a print out from the "NYS Department of State," Division of Corporations, recording the "Initial DOS Filing "Date" of Trans Power's registration to do business as of February 19, 2008.

3. I attach as Exhibit 2 hereto a true copy of my email to Plaintiff's counsel advising that Blank Rome's New York city office is authorized to accept service.

4. I attach as Exhibit 3 hereto a true copy of the N.Y.S. Department of State, Division of Corporations and State Records, filing receipt on March 26, 2008 recording Corporation Service Company, 1133 Avenue of the Americas, New York, NY 10036 as Trans Power's agent for service of process.

5. I attach as Exhibit 4 hereto the transcript of the Court's ruling at oral argument in Centauri Shipping Ltd. v. Western Bulk Carriers KS, et al., (September 7, 2007 S.D.N.Y.) (07 CV 4761(RJS)).

Jeremy J.O. Harwood

Sworn to before me this
1st day of April, 2008

Barbara Walsh
Notary Public

BARBARA WALSH
Notary Public, State of New York
No. 01WA4925486
Qualified in Queens County
Commission Expires August 15, 2010

BARBARA WALSH
Notary Public, State of New York
No. 01WA4925486
Qualified in Queens County
Commission Expires August 15, 2010

EXHIBIT 1

NYS Department of State

Division of Corporations

Entity Information

Selected Entity Name: TRANS POWER CO., LTD.

Selected Entity Status Information

Current Entity Name: TRANS POWER CO., LTD.
Initial DOS Filing Date: FEBRUARY 19, 2008
County: ALBANY
Jurisdiction: ALL OTHERS
Entity Type: FOREIGN BUSINESS CORPORATION
Current Entity Status: ACTIVE

Selected Entity Address Information

DOS Process (Address to which DOS will mail process if accepted on behalf of the entity)
CORPORATION SERVICE COMPANY
80 STATE STREET
ALBANY, NEW YORK, 12207-2543

Registered Agent

NONE

NOTE: New York State does not issue organizational identification numbers.

Search Results New Search

Division of Corporations, State Records and UCC Home Page NYS Department of State Home Page

EXHIBIT 2

Harwood, Jeremy J.O.

From: Harwood, Jeremy J.O.
Sent: Tuesday, March 25, 2008 1:20 PM
To: LENCK, ERIC
Subject: San Juan v Trans Power

Eric awaiting the stip - as a heads up please note that Trans Power is registered as doing business and CSC and ourselves , in our NYC office , are agents for service - we will raise this in the briefing but an amended complaint accompanied by an amended Rule b affidavit should refer to these issues .
Best regards

Jeremy J.O. Harwood | Blank Rome LLP
The Chrysler Building, 405 Lexington Avenue | New York, NY 10174-0208
Phone: 212.885.5149 | Fax: 917.332.3720 | Email: JHarwood@BlankRome.com

EXHIBIT 3

N. Y. S. DEPARTMENT OF STATE
DIVISION OF CORPORATIONS AND STATE RECORDS ALBANY, NY 12231-0001

FILING RECEIPT

ENTITY NAME: TRANS POWER CO., LTD.

DOCUMENT TYPE: CHANGE (FOR/BUS/FICT) PROCESS COUNTY: ALBA

FILED:03/26/2008 DURATION:********* CASH#:080326000218 FILM #:080326000207

FILER:

BLANK ROME LLP
15TH FLOOR 405 LEXINGTON AVENUE

NEW YORK, NY 10174

ADDRESS FOR PROCESS:

C/O CORPORATION SERVICE COMPANY
1133 AVENUE OF THE AMERICAS SUITE 3100
NEW YORK, NY 10036-6710

REGISTERED AGENT:

SERVICE COMPANY: CORPORATION SERVICE COMPANY - 45 SERVICE CODE: 45

FEES	340.00	PAYMENTS	340.00
FILING	30.00	CASH	0.00
TAX	0.00	CHECK	0.00
CERT	0.00	CHARGE	0.00
COPIES	10.00	DRAWDOWN	340.00
HANDLING	300.00	OPAL	0.00
		REFUND	0.00

500815DB DOS-1025 (04/2007)

EXHIBIT 4

1132

7979CEND Decision

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
----------X

CENTAURI SHIPPING LTD.,

Plaintiff,

v. 07 CV 4761 (RJS)

WESTERN BULK CARRIERS KS, ET AL.,

Defendants.

----------X

New York, N.Y.
September 7, 2007
9:30 a.m.

Before:

HON. RICHARD J. SULLIVAN,

District Judge

APPEARANCES

LYONS & FLOOD, L.L.P.
Attorneys for Plaintiff
BY: KIRK M.H. LYONS
JON WERNER

LENNON, MURPHY & LENNON, LLC
Attorney for Defendants
BY: PATRICK F. LENNON

(Case called)

THE DEPUTY CLERK: If the parties could stated their appearances for the record, please.

MR. LYONS: Kirk Lyons and John Werner from Lyons & Flood for plaintiff.

THE COURT: Good morning. I'm sorry. I didn't --

MR. LYONS: Jon Werner.

THE COURT: Mr. Werner.

Good morning.

MR. WERNER: Good morning.

MR. LENNON: Good morning. Patrick Lennon from Lennon, Murphy & Lennon for the defendant, Western Bulk Carriers KS.

THE COURT: Good morning, Mr. Lennon.
Thank you both for coming in.
We last met on Wednesday. We had pretty extensive argument, and I had asked basically for a couple days to consider the arguments, review the cases, review the facts, and to try to come up with where I came out on this thing.
I'm prepared to do that unless there is anything you want to handle preliminarily.
MR. LYONS: None from plaintiff's side, your Honor.
MR. LENNON: None for defendant, your Honor.
THE COURT: I had contemplated issuing a written opinion but I think in the interest of speed decided to just do

it from the bench. I will read portions of it. I hope it's all right.
I'll ready slowly. Cites and things I can give you copies of those as we go or afterwards.
This case is before the court on the defendants' motion to vacate an order of maritime attachment that was entered by Judge Karas on June 5 of 2007. The case was subsequently reassigned to me, and a hearing was conducted pursuant to Supplemental Admiralty Rule E(4)(f) on September 5, 2007. After considering the arguments presented at the hearing as well as those set forth in the parties' extensive papers and submissions, I hereby grant the defendants' motion and vacate the June 5 attachment order.
By way of background, under Rule B of the Supplemental Rules of Certain Admiralty and Maritime Claims, a plaintiff may obtain an ex parte order authorizing attachment of defendants' property upon the filing of a verified complaint praying for an attachment and affidavit stating that to the best of plaintiff's knowledge the defendant cannot be found within the judicial district. On June 5, plaintiff presented such a verified complaint and affidavit to Judge Karas, who, accepting the representations contained therein, issued the attachment order at issue in this case.
Once its property had been restrained, the defendant has the right under Rule E(4)(f) to appear before the district

court to contest that attachment; whereupon the plaintiff must show why the arrest or attachment should not be vacated or other relief granted. Under the Second Circuit's ruling in Aqua Stoli Shipping Limited v. Gardner Smith, the plaintiff at such a hearing bears the burden of demonstrating that: One, it has a valid prima facie admiralty claim against the defendant; two, defendant cannot be found within the district; three, the defendants' property may be found within the district; and four, there is no statutory or maritime law bar to the attachment.
In the instant action, the defendant challenges the June 5 attachment order on three grounds. First, defendant asserts that the plaintiff's verified complaint failed to state a valid prima facie admiralty claim and that the claim, styled as a motion to enforce a money judgment entered by the Angolan Supreme Court, was unripe. Specifically, defendant argues that no such judgment had been issued by the Angolan Court and that, in fact, plaintiff had failed to even commence an action that

might result in such judgment at the time of the attachment.
Second, defendant asserts that plaintiff failed to demonstrate the second prong of the Aqua Stoli test, namely, that the defendant could not be found within the Southern District of New York.
Finally, defendant asserts that the attachment order should be vacated as a result of the court's equitable

discretion to vacate maritime attachments that otherwise comply with Rule B. And I'm quoting from Aqua Stoli at 444.
Because I find that the defendant was, in fact, found within the district at the time that the attachment order was issued, I grant the defendants' motion to vacate the June 5 order without necessarily reaching the other two bases. The reasons for my finding are as follows.
Although the supplemental rules do not precisely define what it means to be found within the district, the Second Circuit has articulated a two-prong test designed to facilitate the determination of whether defendant is, in fact, found within the district for purposes of Rule B. This test, first enunciated in Seawind Compania, SA v. Crescent Line, Inc., provides that the defendant is found within the district if: One, he's found within the district for purposes of jurisdiction; and two, he's found within the district for purposes of the service of process. In essence, the Seawind test requires that the defendant be both amenable to suit in the district and readily susceptible to process in the district.
Addressing the second prong first, there appears to be no dispute that at the time the attachment was sought, the defendant had a valid registered agent for service of process in the Southern District of New York. Accordingly, the parties appear to concede that the defendant was readily susceptible to

process in the district, thereby satisfying the process prong of Seawind. I cited to plaintiff's memorandum of law at 7 and 8 and Mr. Lyons' affidavit in support thereof at paragraph 10.
However, the parties dispute whether the defendant was present jurisdictionally under the first prong of the Seawind test. Although plaintiff concedes that at the time of the attachment it was, in fact, aware that WBC was registered to do business in the State of New York, and had a registered agent for the service of process -- and that's Mr. Lyons' affidavit, 10 -- plaintiff nevertheless insists that a defendant may only be found within the jurisdiction -- found within the district for jurisdictional purposes if it engages in substantial commercial activity within the district. Relying principally on Magistrate Judge Gorenstein's opinion in Erne Shipping v. HBC Hamburg Bulk Carriers, plaintiff asserts that general jurisdiction under New York law may be found only where a defendant corporation's contacts with the district are continuous and systematic, requiring inquiry into "Whether the company has an office in the state, whether it has any bank accounts or other property in the state, whether it has a phone listing in the state, whether it does public relations work there, and whether it has individuals permanently located in the state to promote its interests." That's plaintiff's

memorandum at 9. Applying these factors to the defendant, plaintiff contends that WBC's contacts "taken as a whole are

insufficient to establish a jurisdictional presence in New York" thereby defeating WBC's motion to vacate the attachment on the basis that WBC is not present in New York in the jurisdictional sense. That's also plaintiff's memorandum at 10 and 11 and 13.

I reject this argument as inconsistent with the Second Circuit's opinion in Seawind. Like Judge Lynch in Express Sea Transport Corp. v. Novel Commodities SA, 06 CV 2404, cited in the defendants' brief, I reiterate that the key inquiry relating to the jurisdictional prong of the Seawind test is whether the defendant is amenable to suit within the district. Although such amenability may at times be demonstrated tacitly through the existence of continuous and systematic contacts such as those described by plaintiff, such contacts are by no means the only method of demonstrating a defendant's jurisdictional presence in the district. In fact, the language and context of Seawind suggests that inquiry into the intra-district activities of the defendant is most relevant perhaps as a default in the absence of more explicit manifestations of jurisdictional acquiescence. Here, there is no dispute that the defendant is and was at all times relevant to the attachment a registered foreign corporation within the State of New York. As such, defendant, under New York law, has consented to jurisdiction in the courts of this state. And I cite New York Business Corporations Law 1304 through 1314. The

defendant, by the way, explicitly consented or rather conceded as much at oral argument on Wednesday.

The suggestion that Rule B and the jurisdictional prong of Seawind somehow require more than this so that they would require the court to ignore defendants' explicit consent to jurisdiction in this district in favor of a more cumbersome and unwieldy balancing test of intra-district commercial activity I believe flies in the face of common sense and is not required by Seawind.

Having determined that defendant was both amenable to suit in the district and readily available to accept service of process in the district, I conclude the defendant meets both prongs of the Seawind test. Accordingly, I find the defendant was, in fact, found in the district under Rule B and that the June 5 attachment order must be vacated. As a necessary corollary, I also vacate Judge Karas' June 15 order in which he approved the parties' stipulation to substitute a bond for the attached funds.

Although defendants' motion also requested the dismissal of the complaint in this matter, I believe that the parties agreed at oral argument that there may be at least potentially a basis for this action to continue even though the attachment order has been vacated. I leave that for the plaintiff and plaintiff's counsel to consider, and I will grant plaintiffs ten days in which to amend the complaint if they so

choose, ten days from today.

Now, as was brought out during the September 5 hearing and in the written submissions made in connection with this motion, the verified complaints and the supporting affirmation of this case contained what I consider to be serious misstatements of fact that to my mind require further comment and action by the court, which brings me to the second portion of my ruling, and I think requires a further discussion of the facts leading up to the issuance of the June 5, 2007 attachment.

On June 5, 2007, plaintiff, proceeding ex parte, presented to U.S. District Judge Kenneth M. Karas, a writ of maritime attachment and garnishment and verified complaint.

They sought to attach more than fifteen million dollars of the defendants' funds. Accompanying the attachment was an affirmation by counsel, Mr. Lyons. And in the second paragraph of that affirmation, which was signed by Mr. Lyons under the penalty of perjury, the affirmation read as follows: "Your affiant has attempted to locate the defendants, Western Bulk Carriers KS, Western Bulk AS, and Western Bulk Carriers AS within the district. As part of the investigation, my office has contacted the Division of Corporations of the New York Department of State and found no records indicating that defendants were either incorporated or licensed to do business in the State of New York." That's at paragraph 2 of the

affirmation.

Pursuant to Supplemental Admiralty Rule B(1) of the Federal Rules of Civil Procedure, Judge Karas signed plaintiff's attachment. Plaintiffs thereupon proceeded to attach the defendants' funds and on June 15, 2007 the parties entered into a stipulation to substitute a bond for the attached funds.

In August, 2007, defendants requested a post-deprivation hearing pursuant to Rule of Civil Procedure -- well, Supplemental Admiralty Rule E(4)(f). The parties briefed their positions. And on September 5 of 2007 I held a hearing on the defendants' application to vacate the attachment. Among other things, the defendants argued, as I noted before, that the attachment should be vacated because the defendants could be found in the district within the meaning of Supplemental Rule B(1)(a). Specifically, defendants argue that contrary to the assertions set forth in Mr. Lyons' June 5 affirmation, they had, in fact, been registered with the New York State Department of Corporations to conduct business in New York as a foreign limited partnership since June 22, 2005.

I'm citing the memorandum of law in support of the defendants' motion to vacate the maritime attachment, 3, 4, and page 10 through 15.

Defendants also noted that they had retained a registered agent in New York to accept service of legal

process.

In response to defendants' claims that they could be found in the district, plaintiff offered a mea culpa -- that's plaintiff's term, not mine -- acknowledging that it had made a

misstatement to the court in that it failed to disclose that defendant was, in fact, registered to do business in the State of New York and had a registered agent for the service of legal process within the district.

And I'm quoting the memorandum of law in opposition to the motion to vacate, that's plaintiff's memorandum of law at 6.

Insisting that the misstatement was at most a harmless error, plaintiff attributed the misstatement in Mr. Lyons' ex parte affirmation to a "clerical error" occasioned by plaintiff's use of "a pro forma Rule B(1) affirmation in support of the application for an attachment order" that plaintiffs failed to "revise to properly reflect the results of our investigation." That's Mr. Lyons' affirmation in support of the opposition motion at paragraph 10.

I find that the facts surrounding plaintiff's misstatements suggest otherwise and are highly troubling. In the first place, it should be noted that it was not until August 16 of 2007, more than two months after the issuance of an ex parte attachment order that totaled more than fifteen million dollars, that plaintiff first notified the court that

its affirmation in support of the attachment was inaccurate.

Second, counsel's euphemistic characterization of the misstatement as a clerical error seems wholly inconsistent with the record developed before and during the September 5 oral argument in this matter. For example, in Mr. Lyons' affirmation in opposition to defendants' motion to vacate the attachment, he acknowledged that at the time the initial affirmation was submitted to Judge Karas, "Plaintiff was, in fact, aware that WBC was registered to do business in the State of New York and had a registered agent for the service of process." That's paragraph 10 of the affirmation of Mr. Lyons.

At oral argument Mr. Lyons reaffirmed this fact, conceding that at the time he signed the affirmation presented to Judge Karas, he was, in fact, aware that the defendants were registered in New York and had an agent to accept legal process in New York.

Indeed, Mr. Lyons went even further, stating that he and his cocounsel had actually researched whether registration to do business in New York and having an agent to accept process was sufficient to be found within the district. And he did this research before he signed the affirmation accompanying the attachment. Counsel stated that it was their conclusion that it was not sufficient to be found in the district.

In light of the knowledge and forethought apparently expanded on this issue prior to plaintiff's submission of the

affirmation in this matter, I find it all but inconceivable that counsel could have signed an affirmation under penalty of perjury asserting, as I noted before, that the affiant had attempted to locate the defendants in the district and that as part of the investigation counsel's office had contacted the Division of Corporations of the New York Department of State and found no records indicating that defendants were either incorporated or licensed to do business in the State of New York.

Indeed, the only two possible explanations that come to mind for me are these: Either counsel signed a crucial ex parte affirmation without reading it in even the most cursory fashion; or worse, counsel deliberately submitted an affidavit which he knew to be false and materially misleading to the court. Although the latter conclusion is far more serious, each is gravely troubling, particularly in the context of an ex parte proceeding involving significant sums of money and implicating important and fundamental due process rights. In any event, under no circumstances to my mind could the misstatement at issue here be blindly dismissed as a clerical error.

Equally disturbing to me is the fact that notwithstanding plaintiff's mea culpa, plaintiff nevertheless insists that the misstatement contained in the affirmation was a harmless error and that the June 5 attachment would have

appropriately issued even if plaintiff had not misstated the facts about defendants' presence in the district. Obviously, that is not a determination that plaintiff's counsel is entitled to make. Moreover, plaintiff conceded at oral argument that the information omitted by plaintiff's counsel in the affirmation could have been determinative of whether a judge of this court would have signed the attachment. In light of that concession, not to mention this court's prior ruling today, in which it, in fact, vacated the June 5 attachment order on precisely those grounds, it seems safe to say that counsel's confidence in the harmlessness of the misstatements at issue was highly misplaced. I would also suggest that the facts presented here would arguably justify vacatur of the June 5 order as an exercise of the Court's equitable discretion generally recognized by the Second Circuit in Aqua Stoli and other maritime cases, though, as I mentioned before, it was not necessary to reach that finding for purposes of the motion to vacate.

Finally, I would note that if fifteen million dollar ex parte maritime attachments have now become so routine, so automatic, and so perfunctory as to render the supporting affirmations mere pro forma documents not worthy of being read before they are signed, or that misstatements of the sort at issue here can be brushed aside as mere clerical errors that are simply harmless in nature, then I must consider this entire

area of law may have gotten off the rails, to the detriment of the defendants and the court.

Rule B is a powerful and in some ways unprecedented tool available to plaintiffs in maritime actions. There are good reasons for it. But, it is premised on the assurance that plaintiffs and their counsel will act with care and candor in ex parte proceedings with the court. That clearly did not happen here.

Be that as it may, I believe that the conduct of counsel in this case requires further action by the court. Regardless of whether plaintiff's counsel was careless or deliberately misled the court, the result was the same. The court issued an ex parte order attaching more than fifteen million dollars of defendants' assets based on the affirmation

which plaintiff's counsel now admits was false, at least in part.

In light of these facts, plaintiff is hereby ordered to show cause why the court should not impose sanctions, payable to the court, on plaintiff's counsel under Federal Rule of Civil Procedure 11(b) for submitting an affirmation to the court, Judge Karas in this case, that plaintiff's counsel knew or should have known was materially false, at least in part. And I would cite the Federal Rule of Civil Procedure 11(c)(1)(B) and also the Second Circuit's ruling in Baffa v. Donaldson, Lufkin & Jenrette Securities Corp., at 222 F.3d 52,

at 57, Second Circuit, 2000.

Plaintiff's memorandum of law is due no later than September 28, 2007. That's two weeks from today.

Defendants' counsel, Mr. Lennon, is invited, but not required, to submit its own memorandum on or before that date.

As a concluding comment, let me just say, I derive no satisfaction in issuing an order to show cause in this case, and I don't do it lightly.

Mr. Lyons, I don't know you. I met you on Wednesday for the first time. You struck me as a decent man and a very capable lawyer. I was impressed by the quality of the papers you submitted. I was impressed by the quality and sophistication of the legal arguments that you made at the hearing. I want to assure you, I have not made up my mind with regard to the Rule 11 sanctions issue. I'm keeping an open mind and I intend to read your submissions very carefully and with great attention. I have to admit, however, that I find that the affirmation that was submitted in support of the June 5 attachment order to have been, at best, so careless and so negligent as to border on an abdication of your duties as an officer of the court.

As I just mentioned, that is arguably the best gloss one can put on it. But under these circumstances, I feel I have no choice but to issue this order to show cause and consider the Rule 11 sanctions.

Again, I intend to keep an open mind. I really do hope you'll persuade me that they are not warranted here, but I think on these facts and on this record I have no choice.

That's all I have to say. Unless there are other matters we need to cover, we are adjourned.

MR. LENNON: Your Honor, I'd just like to add a couple of comments about the second portion of your decision on the order to show cause. And I can only say, based on my relationship with Mr. Lyons over many, many years, that this is completely an out-of-character incident for him. We've had countless, countless cases together. And when it came to light that this affidavit was incorrect, which only came to my attention on the 10th of August, which is the first date that we actually attempted to file the motion, I was surprised. And I can tell from you speaking with Mr. Lyons that he, at that time when he first realized the mistake himself.

I'm not offering that as an excuse. I take fully and seriously the comments you made about the impact of that affidavit in terms of a lawyer's obligations.

But I do want to add those comments to the court in terms of your consideration of the order to show cause because this is not, to my knowledge and my experience with Mr. Lyons, in keeping with his character and reputation as a lawyer in this bar.

THE COURT: I appreciate that, and I certainly credit

it. And as I said, I haven't made up my mind on this. And this is, obviously, not personal because my own observations of Mr. Lyons were very positive. But I'm troubled at a state of affairs where an affidavit like that gets presented to a judge on what is not a small matter. This is not a certificate of service demonstrating that a brief was served on an opposing party or that somebody received an innocuous document. This is a fifteen million dollar attachment that in effect was in place for three months, in an ex parte proceeding where the judge is relying on the statement of counsel in the affirmation in making a determination of an attachment. It is a serious, serious matter. And so, I just think I have an obligation to follow up along the lines I've suggested.

MR. LENNON: I'm not disagreeing with your Honor. In fact, some of those comments are arguments that we made in our papers as well. So I appreciate that.

I just wanted to share my thoughts about the situation before the order to show cause comes on for decision.

THE COURT: Thank you, Mr. Lennon. I appreciate that.

Mr. Lyons, you'll have an opportunity to think about this and submit something in writing. But, I do want to hear from you if you want to be heard.

MR. LYONS: No. I have no comments at this time, your Honor. I'll save that for the order to show cause.

THE COURT: Thank you. Anything else we need to cover

today, gentlemen?

MR. LENNON: Your Honor, I think the only point of clarification I would request with respect to the first part of the court's decision is with regard to return of the bond.

One of the things we did request as part of the motion to vacate is that if the court did grant the motion, that the bond be ordered to be returned, which I think is a necessary part of the process.

THE COURT: Yes. I think that's right. And I think I alluded to that in suggesting that as a corollary to the vacatur of the attachment order, I would also be vacating the June 15 order of Judge Karas. But I think I should be more explicit. So I thank you for that.

Yes. I would order that the bond be returned -- or how do you style it?

MR. LENNON: Just the return of the bond.

THE COURT: Okay. Mr. Lyons, do you object to that?

MR. LYONS: The only requirement, your Honor, there's a ten-day automatic stay in respect of your decision and vacation of the attachment. That gives us an opportunity to decide whether we want to appeal. We have the right to appeal your decision.

THE COURT: Understood.

MR. LYONS: So there's an automatic ten-day stay. And

25 then there's an opportunity, and we probably will file a motion

to stay the -- your decision pending appeal.
So, I would ask that we not have to return the bond until after at least the ten-day automatic stay.
THE COURT: I don't think we've discussed really this, but Mr. Lennon you want to respond to that?
MR. LENNON: I have no problem with that position. I've taken that same position myself.
THE COURT: Understood. All right.
And that should be reflected in the order of the court.
Anything else we need to cover today gentlemen?
MR. LENNON: No. Thank you, your Honor.
MR. LYONS: No. Thanks, your Honor.
THE COURT: Thank you all very much.
You know, I'm talking to Mr. Hernandez, and he suggests maybe I should invite the parties or Mr. Lennon to submit a proposed order for the return of the bond that I can then execute.
MR. LENNON: I will do that, your Honor. Is it okay if I submit that by fax?
THE COURT: That's fine. Yes.
MR. LENNON: I'll get the fax number at the end of the hearing.
(Adjourned)